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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,272	03/26/2007	Bruce Alastair Pirrie	089244-000100US	1987

59830 7590 10/19/2010
TED SABETY, c/o Sabety +associates, PLLC
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EXAMINER

JONAITIS, JUSTIN M

ART UNIT	PAPER NUMBER
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3752

NOTIFICATION DATE	DELIVERY MODE
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10/19/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/552,272	Applicant(s) PIRRIE, BRUCE ALASTAIR	
	Examiner JUSTIN JONAITIS	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Traversal of the restriction requirements was previously addressed in the non final office action dated 3/15/2010 and was deemed proper. The traversal of the claims argued by applicant in the response and arguments dated 8/09/2010 does not provide further arguments and therefore the restriction requirement is maintained.
2. Further based on original presentation, claims 7-11 were previously withdrawn from consideration due to being drawn to a non elected species. Therefore claims 7-11 are withdrawn from consideration due to original presentation.
3. In regard to claim 3, the amended limitations requiring the front surface having rounded edges and being disposed at an oblique angle to the longitudinal axis are limitations seen in Figures 2d-f or 3a-c which are non elected species. Therefore Claim 3 is withdrawn from consideration.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1, 2 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, independent claims 1 and 2 both disclose the limitation of the projection/rod being rounded with a radius of curvature less than that of the spray electrode. However, the claims do not specifically disclose that the capillary spray electrode must be rounded.

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1,2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #4,801,086 to Noakes.

Noakes discloses an electrostatic spraying device comprising a capillary spray electrode (plates (3) and (5)) having a spray end (side with outlet edges (10) and (12)), a reference electrode (electrode element (9)), the electrodes being connected across a generator (plates (3) and (5) are connected to a generator to maintain 1-20 KV, and the electrode element 9 is at or near earth potential, ie grounded) in order to establish an electric field between the electrodes that causes fluid in the capillary to be sprayed from the spray electrode, wherein the spray electrode has a focus (central plate (1)) that defines a point at which the electric field is focused [column 4, lines 61-64]. Where the focus is a projection in the form of a rod adjacent walls of the spray electrode and extending beyond a front surface in a direction parallel to the longitudinal axis of the spray electrode. The device being connected to a reservoir in fluid communication with the spray electrode.

Noakes however fails to specifically disclose that the rod has a radius of curvature that is less than the radius of curvature of the spray electrode.

However, In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)(The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence

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that the particular configuration of the claimed container was significant.). Please note in the instant application, Noakes states that the central plate is sharp and effective for intensifying the electrostatic field at edge 7. Therefore one having skill in the art at the time the invention was made to modify the apparatus to the desired shape while maintaining the intensified electrostatic field.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN JONAITIS whose telephone number is (571)270-5150. The examiner can normally be reached on Monday - Thurs 6:30am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JUSTIN JONAITIS/

Examiner, Art Unit 3752

10-14-2010

/Len Tran/

Supervisory Patent Examiner, Art Unit 3752